



February 28, 2014

ENGROSSED HOUSE BILL No. 1204

DIGEST OF HB 1204 (Updated February 26, 2014 5:47 pm - DI 71)

Citations Affected: IC 16-39; IC 20-18; IC 20-19; IC 20-33; IC 33-37; IC 34-30.

Synopsis: Various education and school matters. Provides that if the parent, guardian, or court appointed special guardian of a child enrolled in a school requests a health care provider to disclose certain mental health information to the child's school, the health care provider shall provide the child's school the information. Prescribes the manner in which the information must be released and requires a principal or school leader to sign a confidentiality agreement concerning the release of the information. Prohibits a superintendent or school leader from excusing or excluding a student who was found to be mentally or physically unfit for school attendance if a physician, psychologist, or

(Continued next page)

Effective: July 1, 2014.

Huston, Battles, DeVon, Forestal

(SENATE SPONSORS — YODER, KRUSE, BRODEN)

January 14, 2014, read first time and referred to Committee on Education.

January 28, 2014, amended, reported — Do Pass.

January 30, 2014, read second time, amended, ordered engrossed.

January 31, 2014, engrossed.

February 3, 2014, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Education and Career Development.

February 27, 2014, amended, reported favorably — Do Pass.

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Digest Continued

psychiatrist certifies that the student is fit for school attendance. Defines "agency". Sets forth circumstances under which an agency may release student information to a third party. Provides that the witness fee for an employee of a school district is \$100. Provides civil immunity for a school, school employee, or school board for civil damages that are the result of: (1) an injury to a child or family members of a child if the injury is the result of a student's mental health issue that has not been disclosed to the school by the student's parent or guardian; or (2) referrals the school made or services the school offered concerning evaluations or treatment of the student's health.



February 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1204

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-39-4-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this
3 section, "primary caregiver" means an individual who provides for the
4 physical, emotional, and social needs of another individual who cannot
5 provide for the other individual's own needs.
6 (b) Upon the written request of a patient's:
7 (1) spouse;
8 (2) parent if:
9 (A) the patient does not have a spouse; or
10 (B) the parent is the primary caregiver to the patient;
11 (3) adult child if the patient has neither a spouse nor a parent;
12 (4) sibling if the patient has neither a spouse, a parent, nor an
13 adult child; or
14 (5) guardian, guardian ad litem, or court appointed special
15 guardian;
16 who is involved in the planning, provision, and monitoring of mental

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health services delivered to the patient and the written consent of the treating physician for the patient, the provider shall provide the individual described in subdivision (1), (2), (3), (4), or (5) with the information described in section 3 of this chapter.

(c) Upon the written request of the parent, guardian, or court appointed special guardian who is involved in the planning, provision, and monitoring of the mental health of a child enrolled in a school, the provider shall provide the child's school principal or school leader with information described in section 3 of this chapter without charge.

(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may confirm the provider's immunity.

SECTION 2. IC 16-39-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) If a provider has received a written request under section 2 ~~(b)~~ of this chapter, the provider shall provide **the following information to** the individual who made the request **or if the request is made under section 2(c) of this chapter, the patient's school principal or school leader: with the following information:**

- (1) A summary of the patient's diagnosis.
- (2) A summary of the information required to be given to the patient under IC 12-27-6-2 and IC 12-27-6-3.
- (3) The types of medication that have been prescribed for the patient.
- (4) A summary of the patient's prognosis.

If the information is provided after a request is made under section 2(c) of this chapter, the provider shall limit the information provided to information concerning the patient's mental health. The school principal shall keep the information the principal receives under this section confidential.

(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a



1 confidentiality agreement prescribed by the provider confirming
 2 that the information and mental health records released by the
 3 provider may not be disclosed by the principal except to the
 4 minimum necessary extent required to:

5 (1) inform necessary school staff of the principal's or school
 6 leader's decision regarding the student's fitness for school
 7 attendance and participation in services; or

8 (2) satisfy duties imposed upon the principal or school leader
 9 by law.

10 SECTION 3. IC 20-18-2-16, AS AMENDED BY P.L.190-2013,
 11 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2014]: Sec. 16. (a) "School corporation", for purposes of this
 13 title (except IC 20-20-33, IC 20-26-1 through IC 20-26-5, IC 20-26-7,
 14 IC 20-28-11.5, IC 20-30-8, and IC 20-43), means a public school
 15 corporation established by Indiana law. The term includes a:

- 16 (1) school city;
- 17 (2) school town;
- 18 (3) school township;
- 19 (4) consolidated school corporation;
- 20 (5) metropolitan school district;
- 21 (6) township school corporation;
- 22 (7) county school corporation;
- 23 (8) united school corporation; or
- 24 (9) community school corporation.

25 (b) "School corporation", for purposes of IC 20-26-1 through
 26 IC 20-26-5 and IC 20-26-7, has the meaning set forth in IC 20-26-2-4.

27 (c) "School corporation", for purposes of IC 20-19-7, IC 20-20-33,
 28 IC 20-26-18, and IC 20-30-8, includes a charter school (as defined in
 29 IC 20-24-1-4).

30 (d) "School corporation", for purposes of IC 20-43, has the meaning
 31 set forth in IC 20-43-1-23.

32 (e) "School corporation", for purposes of IC 20-28-11.5, has the
 33 meaning set forth in IC 20-28-11.5-3.

34 SECTION 4. IC 20-19-7 IS ADDED TO THE INDIANA CODE AS
 35 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2014]:

37 Chapter 7. Transfer of Student Information

38 Sec. 1. As used in this chapter, "agency" refers to the
 39 department, the state board, a school corporation, a public school,
 40 or any other entity created by statute or executive order that
 41 collects, maintains, receives, or stores student information.

42 Sec. 2. As used in this chapter, "student information" means any



1 data collected, maintained, received, or stored by an agency in
 2 which an individual student in kindergarten through grade 12 is
 3 identified by name, by an assigned identification number, or in any
 4 manner by which the identity of an individual student may be
 5 ascertained.

6 **Sec. 3. An agency may release or otherwise transfer student**
 7 **information to an entity only under the following circumstances:**

8 (1) For a student who transfers to another public or nonpublic
 9 school.

10 (2) For a student who attends a postsecondary educational
 11 institution or a training program.

12 (3) For a student who registers for or takes part in a national
 13 or multistate assessment.

14 (4) When an agency enters into:

15 (A) a contract that governs data bases, assessments, special
 16 education, or instructional, management, or operational
 17 supports with a third party;

18 (B) a data sharing agreement with an entity, acting on
 19 behalf of the agency, to conduct an audit or evaluation of
 20 a state or federally funded program; or

21 (C) a data sharing agreement with a researcher or
 22 research agency to conduct research on the agency's
 23 behalf.

24 (5) For a student who is classified as a migrant for federal
 25 reporting purposes.

26 SECTION 5. IC 20-33-2-46, AS ADDED BY P.L.1-2005,
 27 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2014]: Sec. 46. (a) ~~With the approval of the state board,~~
 29 **Except as provided in subsection (c), a superintendent or school**
 30 **leader** may exclude or excuse a student found mentally or physically
 31 unfit for school attendance. An exclusion or excuse under this section
 32 is valid only for the school year during which it is issued **and shall not**
 33 **violate a student's right to a free and appropriate public education**
 34 **under federal law.**

35 (b) A superintendent's action under this section must be in
 36 accordance with limitations and regulations established by the state
 37 board concerning the procedures and requirements for the complete
 38 examination of students.

39 (c) (b) A student may not be compelled to undergo any examination
 40 or treatment under this chapter when the student's parent objects on
 41 religious grounds, which consists of a good faith reliance on spiritual
 42 means or prayer for healing. The objection is not effective unless it is:



- (1) made in writing;
- (2) signed by the student's parent; and
- (3) delivered to the student's teacher or to the individual who might order an examination or treatment absent the objection.

~~A student may not be excluded under this section except as provided under IC 20-33-8.~~

(c) If a physician, psychologist, or psychiatrist certifies that a student is fit for school attendance, the superintendent or school leader may not exclude or excuse that student.

SECTION 6. IC 33-37-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) **Except as provided in section 3.5 of this chapter**, a witness in a criminal action may receive a fee if the witness:

- (1) is summoned by the state;
 - (2) is named on the indictment or information; and
 - (3) testifies under oath to a material fact in aid of the prosecution.
- (b) A fee paid under subsection (a) is the sum of the following:
- (1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.
 - (2) For each day of attendance in court equal to:
 - (A) fifteen dollars (\$15) for witnesses subpoenaed under IC 35-37-5-4; or
 - (B) five dollars (\$5) for all other witnesses.

SECTION 7. IC 33-37-10-3, AS AMENDED BY P.L.1-2007, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. **Except as provided in section 3.5 of this chapter**, a witness in an action listed in IC 33-37-4-2, IC 33-37-4-3, IC 33-37-4-4, IC 33-37-4-6, and IC 33-37-4-7 is entitled to the sum of the following:

- (1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.
- (2) Five dollars (\$5) for each day of attendance in court.

SECTION 8. IC 33-37-10-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.5. A witness in any civil or criminal action who is employed by a school in Indiana is entitled to the sum of the following if the witness is called to testify on a regular school day of the school district that employs the witness:**

- (1) **An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.**
- (2) **One hundred dollars (\$100) for each day of attendance in**



1 **court.**

2 SECTION 9. IC 34-30-28 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2014]:

5 **Chapter 28. Immunity for Schools, School Employees, and**
6 **School Boards Concerning Student Health**

7 **Sec. 1. A school, school employee, or school board is not liable**
8 **for civil damages as a result of:**

- 9 **(1) an injury to a child or family members of the child if the**
10 **injury is a result of a student's mental health issue that has**
11 **not been disclosed to the school by the parents or guardian; or**
12 **(2) any referrals the school made or services the school**
13 **offered concerning evaluations or treatment of the student's**
14 **health, including mental health.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1204, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, after "guardian," delete "guardian".

Page 2, line 6, delete "ad litem,".

Page 2, line 9, after "principal" insert "**or school leader**".

Page 2, line 9, delete "." and insert "**without charge**".

Page 2, line 15, delete ":" and insert "**or school leader**".

Page 2, line 33, after "superintendent" insert "**or school leader**".

Page 2, line 36, delete "." and insert "**and shall not violate a student's right to a free and appropriate public education under federal law**".

Page 2, strike lines 37 through 40.

Page 2, line 41, strike "(c)" and insert "**(b)**".

Page 3, strike lines 7 through 8.

Page 3, line 9, delete "(d)" and insert "**(c)**".

Page 3, line 10, after "superintendent" insert "**or school leader**".

Page 3, line 38, delete "district (as defined in)".

Page 3, line 39, delete "IC 36-1-2-17)" and insert "**in Indiana**".

Page 4, delete lines 12 through 15, begin a new line block indented and insert:

"(1) an injury to a child or the family members of a child if the injury is a result of a student's mental health issue that has not been disclosed to the school by the parents or guardian; or"

and when so amended that said bill do pass.

(Reference is to HB 1204 as introduced.)

BEHNING, Chair

Committee Vote: yeas 11, nays 1.



HOUSE MOTION

Mr. Speaker: I move that House Bill 1204 be amended to read as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"(d) A parent, guardian, guardian ad litem, or court appointed special guardian who prepares a written request under this section shall sign an authorization for the release of mental health records, as may be requested by the provider in satisfaction of any requirements under the Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq., as amended and including governing regulations) and state law. A provider that discloses information and records to a school principal or school leader as requested under this chapter is immune from civil, criminal, and administrative liability for the disclosure to the school principal or school leader. The authorization required by the provider may confirm the provider's immunity."

Page 2, line 12, after "3." insert **"(a)"**.

Page 2, line 28, delete ", and the principal may use" and insert ".".

Page 2, delete lines 29 through 30, begin a new paragraph and insert:

"(b) A school principal or school leader who receives information and mental health records under this chapter shall sign a confidentiality agreement prescribed by the provider confirming that the information and mental health records released by the provider may not be disclosed by the principal except to the minimum necessary extent required to:

- (1) inform necessary school staff of the principal's or school leader's decision regarding the student's fitness for school attendance and participation in services; or**
- (2) satisfy duties imposed upon the principal or school leader by law."**

(Reference is to HB 1204 as printed January 28, 2014.)

FORESTAL



COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred House Bill No. 1204, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 3. IC 20-18-2-16, AS AMENDED BY P.L.190-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) "School corporation", for purposes of this title (except IC 20-20-33, IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-28-11.5, IC 20-30-8, and IC 20-43), means a public school corporation established by Indiana law. The term includes a:

- (1) school city;
- (2) school town;
- (3) school township;
- (4) consolidated school corporation;
- (5) metropolitan school district;
- (6) township school corporation;
- (7) county school corporation;
- (8) united school corporation; or
- (9) community school corporation.

(b) "School corporation", for purposes of IC 20-26-1 through IC 20-26-5 and IC 20-26-7, has the meaning set forth in IC 20-26-2-4.

(c) "School corporation", for purposes of **IC 20-19-7**, IC 20-20-33, IC 20-26-18, and IC 20-30-8, includes a charter school (as defined in IC 20-24-1-4).

(d) "School corporation", for purposes of IC 20-43, has the meaning set forth in IC 20-43-1-23.

(e) "School corporation", for purposes of IC 20-28-11.5, has the meaning set forth in IC 20-28-11.5-3.

SECTION 4. IC 20-19-7 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 7. Transfer of Student Information

Sec. 1. As used in this chapter, "agency" refers to the department, the state board, a school corporation, a public school, or any other entity created by statute or executive order that collects, maintains, receives, or stores student information.

Sec. 2. As used in this chapter, "student information" means any data collected, maintained, received, or stored by an agency in which an individual student in kindergarten through grade 12 is



identified by name, by an assigned identification number, or in any manner by which the identity of an individual student may be ascertained.

Sec. 3. An agency may release or otherwise transfer student information to an entity only under the following circumstances:

- (1) For a student who transfers to another public or nonpublic school.**
- (2) For a student who attends a postsecondary educational institution or a training program.**
- (3) For a student who registers for or takes part in a national or multistate assessment.**
- (4) When an agency enters into:**
 - (A) a contract that governs data bases, assessments, special education, or instructional, management, or operational supports with a third party;**
 - (B) a data sharing agreement with an entity, acting on behalf of the agency, to conduct an audit or evaluation of a state or federally funded program; or**
 - (C) a data sharing agreement with a researcher or research agency to conduct research on the agency's behalf.**
- (5) For a student who is classified as a migrant for federal reporting purposes."**

Page 3, line 13, delete "(d)," and insert "(c),".

Page 4, line 35, after "or" delete "the".

Page 4, line 35, after "of" delete "a" and insert "**the**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1204 as reprinted January 31, 2014.)

KRUSE, Chairperson

Committee Vote: Yeas 10, Nays 0.

